

AFFORDABILITY REQUIREMENTS

Posted 8/28/09

Has there been any further discussion at HUD about the maximum rents for the NSP program? We wanted to know whether the High HOME rents (30% of 65% AMI) were applicable for tenants at the 120% AMI level. In the areas we're working in, the market rents will generally constrain the rents anyway but these are long-term restrictions and we're shooting for transformation! The lower rents could be a windfall for the higher-income tenants if they're not aligned more properly (i.e. 30% of 120% AMI). Any further guidance on this?

Sec. B 3 (page 58334) of the NSP Notice requires grantees to ensure continued affordability for assisted units. It says "in its NSP action plan substantial amendment, a grantee will define "affordable rents"." Grantees must also ensure that costs are reasonable and that any subsidy does not unduly enrich a developer. Charging higher rents should increase revenues for the developer and thus reduce the level of initial subsidies.

HUD believes that it is appropriate for grantees to establish higher rent levels for units between 80% and 120% of median. Since neither HOME nor CDBG has policies developed for this middle income group, grantees should develop appropriate policies for their own circumstances. HUD finds the following two options acceptable;

1. Grantees may set rents based on tenant household income, not to exceed comparable unassisted rents in the neighborhood. This would allow variation among submarkets and updating to meet changing market conditions. OR
2. Grantees may set a fixed rent, for example, 30% of the 120% of Area Median Income. This method is easier to administer but less flexible in volatile markets.

Other methodologies could also meet the NSP requirements, provided that they also ensure reasonable costs and comply with all other standards in the Notice.

Updated 04/21/09

How does HUD define "continued affordability" and how long do NSP1 grantees have to monitor NSP1-funded activities?

As stated in the NSP1 Notice, Grantees shall ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed-upon homes and residential properties under this section remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income or, for units originally assisted with funds under the requirements of Section 2301(f)(3)(A)(ii), remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.

HUD will consider any grantee adopting the HOME program standards at 24 CFR 92.252(a), (c), (e), and (f), and 92.254 to be in minimal compliance with this

standard and expects any other standards proposed and applied by a grantee to be enforceable and longer in duration. However, where NSP1 and HOME requirements conflict, the NSP1 requirements take precedence.

Posted 06/08/09

What are NSP1 grantees required to do in terms of income certification for rental programs?

HUD has determined that tenant incomes must be certified as meeting the applicable income limits at initial occupancy and at any time a new tenant occupies a unit. Existing tenants are not required to recertify their incomes annually but new tenants must meet the prevailing income limits when taking occupancy of an NSP1-assisted unit throughout the period of affordability.

Related Discussion:

To meet the requirement of continued affordability for the NSP1 Program, the Notice in Section II B (3) (a) says that “HUD will consider any grantee adopting the HOME program standards at 24 CFR 92.252(a), (c), (e), and (f), and 92.254 to be in minimal compliance with this standard and expects any other standards proposed and applied by a grantee to be enforceable and longer in duration”.

Section 92.254 of the HOME regulations affects homeowner programs. In practice, homeowners will have their income certified under the Resale Provision at initial occupancy and when a new owner purchases the home. Under the Recapture Provision, the new purchaser does not certify his or her income, but the funds are returned and a new purchaser certifies that they meet the income limits.

For rental programs, the HOME regulations at 92.252 (h) require annual recertification of tenant incomes. However, this section was not adopted in the NSP1 Program because the CDBG Program has not required annual recertification. The sections that were adopted, 92.252 (a), (c), (e), and (f), require initial certification and affordable rents. Grantees have therefore questioned when they must certify the incomes of tenants after initial occupancy.

In keeping with legislative intent, CDBG policy, and income certification in Homeowner Programs, HUD has determined that tenant incomes must be certified as meeting the applicable income limits at initial occupancy and at any time a new tenant occupies a unit. Existing tenants are not required to recertify their incomes annually but, to ensure consistency, new tenants must meet the prevailing income limits when taking occupancy of an NSP1-assisted unit throughout the period of affordability. This requirement applies both to tenants below 50% of Area Median Income and those below 120% of median.